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In the Matter of  
ADJUSTMENT OF RATES FOR  
NONCOMMERCIAL EDUCATIONAL  
BROADCASTING COMPULSORY LICENSE

)  
) Docket No. 96-6 CARP NCBRA  
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)

**SUPPLEMENTAL MEMORANDUM OF BROADCAST MUSIC, INC. IN FURTHER  
OPPOSITION TO ASCAP'S MOTION TO COMPEL PRODUCTION DATED  
NOVEMBER 7, 1997**

Broadcast Music, Inc. ("BMI") submits this supplemental memorandum in further opposition to the American Society of Composers, Authors and Publishers's ("ASCAP") November 7, 1997 motion to compel production from BMI.

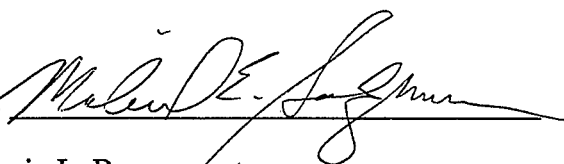
On November 26, 1997, in a facsimile letter from Philip Schaeffer, on behalf of ASCAP, to William Roberts of the Copyright Office, ASCAP noted that it was "scheduled to file a reply to the [November 18, 1997] opposition of Broadcast Music, Inc. ("BMI") to ASCAP's [November 7, 1997] motion to compel documents from them. As set forth in BMI's opposition, they have now complied with ASCAP's document requests, mooted the motion." (See November 26, 1997 letter from ASCAP to the Copyright Office, a copy of which is attached hereto as Exhibit A) (emphasis added).

### Conclusion

Since ASCAP agrees with BMI that ASCAP's November 7, 1997 motion to compel production from BMI is moot, BMI respectfully requests that the Copyright Office deny ASCAP's motion.

Dated: December 5, 1997

Respectfully submitted,

By: 

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Attorneys for Broadcast Music, Inc.

**CERTIFICATE OF SERVICE**

I, David L. Sorgen, an attorney, hereby certify that I caused a copy of the foregoing SUPPLEMENTAL MEMORANDUM OF BROADCAST MUSIC, INC. IN FURTHER OPPOSITION TO ASCAP'S MOTION TO COMPEL PRODUCTION DATED NOVEMBER 7, 1997, Docket No. 96-6, before the Copyright Arbitration Royalty Panel, United States Copyright Office, Library of Congress, to be delivered by overnight federal express on this 8th day of December, 1997 on each of the parties listed on the attached service list.

Deponent is over the age of 18 years and not a party to this action.

I further certify under penalty of perjury that the foregoing is true and correct.

Executed on December 8, 1997.

  
\_\_\_\_\_  
David L. Sorgen

## SERVICE LIST

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SENT VIA FACSIMILE

## MULTIPLE MESSAGE COVER SHEET

DATE: November 26, 1997 NO. OF PAGES INCLUDING THIS COVER SHEET: 4SENDER: Sam Mosenkis SENDER'S NO.: (212) 819-8424

## TO THE FOLLOWING:

NAME: William Roberts COMPANY: U.S. Copyright OfficeNAME: Neal Jackson/Denise Leary COMPANY: NPRNAME: Ann Zedd COMPANY: PBSNAME: Bruce Rich/Tracey Blatt COMPANY: Weil Gotshal & MangesNAME: Marvin Berenson/Joe Dimona COMPANY: BMINAME: Norman Kleinberg/Michael Salzman COMPANY: Hughes Hubbard & Reed

CC: \_\_\_\_\_

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See Attached Letter

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(WED) 11.26.97 16:54/ST.16:41/NO.3561753510 P.1/2

FROM W&amp;C NY FAX DEPT

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November 26, 1997

VIA FACSIMILE

William J. Roberts, Esq.  
Senior Attorney  
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Office of the Register of Copyrights  
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101 Independence Avenue  
Washington, D.C. 20540

Re In the Matter of Adjustment of the Rates for Noncommercial Educational Broadcasting  
Compulsory License, Docket No. 96-6 CARL NCBRA

Dear Mr. Roberts:

Today we are filing with the Copyright Office the reply of the American Society of Composers, Authors & Publishers ("ASCAP") to the opposition of the Public Broadcasting Service and National Public Radio (collectively, the "Public Broadcasters") to ASCAP's motion to compel filed with the Office on November 7, 1997.

ASCAP was also scheduled to file a reply to the opposition of Broadcast Music, Inc. ("BMI") to ASCAP's motion to compel documents from them. As set forth in BMI's opposition, they have now complied with ASCAP's outstanding document requests, mooted the motion. We would merely note that BMI has, in a separate motion, asked that the Office compel ASCAP to produce that which it may be compelled to produce to the Public Broadcasters. While we believe that BMI's motion is unfounded, as a matter of fairness, should BMI's motion be granted, BMI should be required to produce to ASCAP that which it may be compelled to produce to the Public Broadcasters.

11/26/97 (212) 354-8113

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William J. Roberts, Esq

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We thank you for your kind consideration of these matters

Very truly yours,

Philip H. Schaeffer

Philip H. Schaeffer

cc: All Counsel of Record

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(WED) 11.26.97 16:54/ST. 16.41/NO. 3561753510 P 3/4

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**WHITE & CASE**

William J. Roberts, Esq.

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